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criminations which its provisions express or by operation necessarily bring about and the indirect and wholly negligible influence on interstate commerce, even if in some aspects detrimental, arising from a statute which there was power to enact and in which there was an absence of all discrimination, whether express or implied as the result of the necessary operation and effect of its provisions. The distinction between the two has been enforced from the beginning as vital to the perpetuation of our constitutional system. Indeed, as correctly pointed out by the court below, that principle as applied in adjudged cases is here directly applicable and authoritatively controlling. *New York v. Roberts*, 171 U. S. 658, 19 Sup. Ct. 58, 43 L. Ed. 323; *Reymann Brewing Co.*, 179 U. S. 445, 21 Sup. Ct. 201, 45 L. Ed. 269."

Interstate Commerce—Regulation of Operation of Trains.—The Supreme Court of the United States in *Missouri, K. & T. R'y of Texas v. State of Texas*, 38 Sup. Ct. R. 178, held that an order of a state railroad commission requiring passenger trains to start from their point of origin and from stations on the line in accordance with the advertised schedule, with certain allowances for connections with trains on other lines, was an unlawful interference with interstate commerce as applied to an interstate train received by defendant from a connecting line at a point near the state line and coming into defendant's hands too late for compliance with the schedule, as compliance with the order could not be secured, by running an extra train if the regular one was not on time, it appearing that defendant had a right to advertise the interstate train, and offering another train would not free itself from liability. The court said:

"This is a suit brought by the State of Texas to recover penalties for violation of an order of the State Railroad Commission. This order required passenger trains in Texas to start from their point of origin and from stations on the line in accordance with advertised schedule, allowing them not exceeding thirty minutes at origin or points of junction with other lines to make connection with trains on such other lines, and not exceeding ten minutes more if at the end of the thirty minutes the connecting trains were in sight. There were some other qualifications not necessary to be stated. The defendant's passenger trains concerned were numbers 9 and 209, and were parts of a train also numbered 9. of the Missouri, Kansas & Texas Railway, a different corporation, taken charge of by the defendant at Denison, Texas, about five miles south of the Texas and Oklahoma State line, under a contract with the Missouri, Kansas & Texas. In pursuance of this contract they were forwarded via Dallas and Fort Worth to Hillsboro; thence as one train to Granger, and there again divided, the two parts going respectively to Galveston and San Antonio. There were similar arrangements for trains

to the north. The cars received by the defendant came from St. Louis and Kansas City, Missouri, uniting at Parsons, Kansas, and thence proceeding south to Denison. The Court of Civil Appeals at first held that the movement must be regarded as a continuous one from Kansas City and St. Louis, and that the order did not apply to the train; but on a rehearing (167 S. W. 822) decided that as the defendant took control at Denison with new crews and engines, and as the defendant could not go beyond the State line, the movement so far as the defendant was concerned was wholly within the State. Breaches of the order having been proved, it affirmed a judgment imposing a fine. A writ of error was refused by the Supreme Court of the State.

"The Supreme Court gave up the manifestly untenable ground taken by the Court of Civil Appeals and recognized that the defendant's trains were instruments of commerce among the states, but it construed the order as applying to them none the less, and held it valid as so applied. The only question with which we have to deal is whether the State commission could intermeddle in this way, especially when there was sufficient accommodation for local traffic independent of the through trains. The defendant in error attempts to open this last matter, because the opinion of the Court of Civil Appeals in, which the fact was stated was reversed by it for a different reason, and that of the court of first instance was the other way. But we regard the decision of the intermediate and the Supreme Court as proceeding upon the assumption that we have stated and that we see no reason to disturb. Again, the question is not what the State commission might require of a road deriving its powers from the State, with regard to local business (*Missouri Pacific R'y v. Kansas*, 216 U. S. 262, 283, 30 Sup. Ct. 330, 54 L. Ed. 472), but whether the order, if applied to this case, would not unlawfully interfere with commerce among the States.

"On its face the order as applied was an interference with such commerce. It undertook to fix the time allowed for stops in the course of interstate transit. It was a serious interference, for it made the defendant liable for an interstate train not starting on schedule time, when the train did not come into the defendant's hands, from another company in another State, until too late. This, as we understand the facts, was the train to which the advertised schedule applied, and if so, the mere statement of the result is enough to show that the burden imposed not only was serious but was unwarranted as well as unjust. The suggestion that compliance with the order could have been secured by having an extra train ready to run if the regular one was not on time hardly is practical, and is not an adequate answer, even in form. For the defendant advertised, or at least had the right to advertise, the interstate train, and, if it did so, would not free itself from liability for a delay on the part of that

train by offering another. We think it plain that this order was applied in a way that was beyond the power of the commission and courts of the State (*Seaboard Air Line R'y v. Blackwell*, 244 U. S. 310, 37 Sup. Ct. 640, 61 L. Ed. 1160; *Chicago, Burlington & Quincy R. R. v. Railroad Comm'n of Wisconsin*, 237 U. S. 220, 226, 35 Sup. Ct. 560, 59 L. Ed. 926; *South Covington & Cincinnati St. R'y v. Covington*, 235 U. S. 537, 548, 35 Sup. Ct. 158, 59 L. Ed. 530, L. R. A., 1915F, 792.)"

Negligence—Care of Premises—Invitees.—In *Leighton v. Dean*, 102 Atl. 565, in the Supreme Judicial Court of Maine, it appeared that plaintiff, a pedestrian, while waiting for a street car stood upon a three-foot strip of sidewalk joining the pavement, but on private property, and was inspecting a display in a shop window when she was injured by the falling of an awning over the window. The strip of sidewalk did not present any different appearance from the rest of the pavement. It was held that plaintiff was on the three-foot strip as a licensee by the invitation of defendant, the owner of the shop, who owed to her the duty to see that the premises were in a reasonably safe condition. The court said in part:

"The defendant contends that the plaintiff was, at most, a mere passive licensee to whom he owed no duty except not to do wanton injury (*McClain v. Caribou Nat. Bank*, 100 Me. 437, 62 Atl. 144). With this we cannot agree. The window displays by abutting retail salesmen are among the most common and effective methods of advertising. They challenge the attention of the public and invite and induce closer inspection of the dealer's wares. It is not expected that all who stop to gaze should become immediate purchasers, but all are invited that some may be persuaded. We hold, therefore, that the plaintiff was upon the three-foot strip as a licensee by the express or implied invitation and allurement of the defendant, and that he consequently owed to her the duty to see that his premises were in a reasonably safe condition (*Moore v. Stetson*, 96 Me. 203, 52 Atl. 767; *Patten v. Bartlett*, 111 Me. 409, 89 Atl. 375, 49 L. R. A., N. S., 1120; *Bennett v. Railroad Co.*, 102 U. S. 577, 26 L. Ed. 235).

"The strip, being so surfaced and finished that to all intents and purposes it was a part of the street intended for foot passengers, extended to the public an implied invitation to use it as such (*Holmes v. Drew*, 151 Mass. 578, 25 N. E. 22; *Sweeney v. Old Colony R. R.*, 10 Allen, Mass. 368, 87 Am. Dec. 644).

"In *Holmes v. Drew* the plaintiff was injured by defect in what she believed was a part of the sidewalk, but which was in fact private land of the defendant abutting thereon. The court says the jury might have inferred from the facts stated that the defendant laid out and paved the sidewalk on her own land in order that it should be